

SUBCHAPTER B—ACQUISITION PLANNING

PART 3005—PUBLICIZING CONTRACT ACTIONS

Subpart 3005.4—Release of Information

Sec.

3005.402 General public.

3005.470 Contractor award announcements, advertisements, and releases.

3005.470-1 Policy.

3005.470-2 Contract clauses.

Subpart 3005.90—Publicizing Contract Actions for Personal Services Contracting

3005.9000 Applicability (USCG).

AUTHORITY: 5 U.S.C. 301-302, 41 U.S.C. 1707, 41 U.S.C. 1702, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0702.

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

Subpart 3005.4—Release of Information

3005.402 General public.

Requests for other specific records information shall be processed according to the DHS Freedom of Information Act rules and regulations (HSAR) 48 CFR 3024.203.

3005.470 Contractor award announcements, advertisements, and releases.

3005.470-1 Policy.

(a) DHS policy requires its contracting officers to restrict DHS contractors from referring to its DHS contract(s) in commercial advertising in a manner that states or implies the Government approves or endorses the contractor's products or services or considers them superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

(b) The Department's contractors share the responsibility for protecting sensitive and classified information related to efforts under their contracts. For any contract that involves sensitive or classified information, prior to the release of any contract award announcement, advertisement, or other

release of information pertaining to the contract, the contractor must obtain the approval of the responsible contracting officer.

[77 FR 50634, Aug. 22, 2012]

3005.470-2 Contract clauses.

(a) Insert the clause at (HSAR) 48 CFR 3052.205-70, Advertisements, Publicizing Awards, and Releases, in all solicitations and contracts that exceed the simplified acquisition threshold.

(b) Except for research contracts with educational institutions, if the contract involves sensitive or classified information, use the clause with its Alternate I. For research contracts with educational institutions, see (HSAR) 48 CFR 3035.70-2(b).

[77 FR 50634, Aug. 22, 2012]

Subpart 3005.90—Publicizing Contract Actions for Personal Services Contracting

3005.9000 Applicability (USCG).

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized for the Coast Guard under 10 U.S.C. 1091, as amended by section 1512(d) of the Homeland Security Act, 6 U.S.C. 552(d), and are exempt from (FAR) 48 CFR part 5.

[71 FR 25768, May 2, 2006]

PART 3006—COMPETITION REQUIREMENTS

Subpart 3006.1—Full and Open Competition

Sec.

3006.101 Policy.

3006.101-70 Definitions.

Subpart 3006.2—Full and Open Competition After Exclusion of Sources

3006.202 Establishing or maintaining alternative sources.

Homeland Security Department

3006.302–270

Subpart 3006.3—Other Than Full and Open Competition

3006.302 Circumstances permitting other than full and open competition.
3006.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.
3006.302–270 Unusual and compelling urgency.
3006.302–7 Public interest.
3006.303 Justifications.
3006.303–270 Content.
3006.304 Approval of justification.
3006.304–70 DHS Approval of justification.

Subpart 3006.5—Competition Advocates

3006.501 Requirement.

Subpart 3006.90—Competition Requirements for Personal Services Contracting

3006.9000 Applicability (USCG).

AUTHORITY: 5 U.S.C. 301–302, 41 U.S.C. 1707, 41 U.S.C. 1702, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0702.

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

Subpart 3006.1—Full and Open Competition

3006.101 Policy.

3006.101–70 Definitions.

As used in this part:

Agency competition advocate means an individual designated by the Chief Procurement Officer (CPO) to perform, at a minimum, the functions under (FAR) 48 CFR 6.502(b) and is synonymous with “Departmental Competition Advocate” and “Senior Competition Advocate (SCA).”

Competition advocate for the procuring activity means the individual who has been designated by the Component to approve Justifications and Approvals (J & A) for other than full and open competition as permitted by the (FAR) 48 CFR 6.304 and to perform the duties and responsibilities assigned under (FAR) 48 CFR 6.502. This term is synonymous with “procuring activity competition advocate.”

[71 FR 25769, May 2, 2006, as amended at 71 FR 48801, Aug. 22, 2006]

Subpart 3006.2—Full and Open Competition After Exclusion of Sources

3006.202 Establishing or maintaining alternative sources.

(b)(1) The HCA is delegated authority to approve a D&F in support of a contract action award under the authority of (FAR) 48 CFR 6.202(a). Submit D&F in the format per (HSAR) 48 CFR 3001.704.

Subpart 3006.3—Other Than Full and Open Competition

3006.302 Circumstances permitting other than full and open competition.

3006.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(b)(4) The contracting officer may rely on this exception in the case where only one source is available to provide additional units or replacement items under a specific make and model requirement, but only where the CPO has determined in accordance with the agency’s standardization program that only the specific make(s) and model(s) will satisfy the agency’s needs.

[77 FR 50634, Aug. 22, 2012]

3006.302–270 Unusual and compelling urgency.

(d)(1)(iii) For contract awards to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster, that relies on this exception, the period of performance shall be limited to the minimum period necessary to meet the urgent and compelling requirements of the work to be performed and to enter into another contract for the required goods or services through the use of competitive procedures, but in no event shall the period of performance exceed 150 days, unless the Head of the Contracting Activity (or higher approval authority if required by (FAR) 48 CFR 6.304 or DHS procedures) determines that exceptional circumstances apply, approving the justification as set forth in (HSAR) 48 CFR 3006.304.

3006.302-7

The limitation on the period of performance applies to contracts awarded in response to, or to recovery from:

(A) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121-5207) (see <http://www.fema.gov/news/disasters.fema#sev2> for a list of declarations);

(B) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (see <http://www.fema.gov/news/disasters.fema#sev2> for a list of declarations); or

(C) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

[77 FR 50634, Aug. 22, 2012]

3006.302-7 Public interest.

(c)(1)(ii) Requests shall be prepared in writing by the contracting officer, using the format found in (HSAR) 48 CFR 3001.704, and submitted through the HCA to the CPO for review and transmittal to the Secretary for approval.

3006.303 Justifications.

3006.303-270 Content.

(a)(9)(iv) For a proposed contract subject to the restrictions of (HSAR) 48 CFR 3006.302-270(d)(1)(iii) and where (FAR) 48 CFR 6.302-2 is cited as the authority, the exceptional circumstances allowing for an award for a period of performance in excess of 150 days.

[77 FR 50634, Aug. 22, 2012]

48 CFR Ch. 30 (10-1-12 Edition)

3006.304 Approval of justification.

3006.304-70 DHS Approval of justification.

A justification for other than full and open competition that cites (FAR) 48 CFR section 6.302-2 as its authority shall be approved in writing by the HCA (unless a higher approval authority is required in accordance with (FAR) 48 CFR section 6.304 or DHS procedures) for a proposed DHS contract to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster with a period of performance in excess of 150 days. The justification should make plain the exceptional circumstances that justify the duration of the contract. This authority may not be redelegated by the HCA.

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Subpart 3006.5—Competition Advocates

3006.501 Requirement.

The DHS Senior Competition Advocate (SCA) is located in the Office of the Chief Procurement Officer (OCPO).

Subpart 3006.90—Competition Requirements For Personal Services Contracting

3006.9000 Applicability (USCG).

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended, for the Coast Guard and are exempt from the competition requirements of (FAR) 48 CFR part 6.

PART 3007—ACQUISITION PLANNING

Subpart 3007.1—Acquisition Plans

Sec.

3007.106 Additional Requirements for Major Systems.

3007.106-70 Limitations on Lead System Integrators.

AUTHORITY: 5 U.S.C. 301-302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.